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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**

9 FRIENDS OF EAST FORK,

10 Plaintiff,

11 v.

12 J.L. STOREDAHL & SONS, INC.,

13 Defendant.

14  
15 Case No. C02-5035JKA

16  
17 **ORDER GRANTING PLAINTIFFS**  
18 **MOTION TO ENFORCE CONSENT**  
19 **DECREE**

20 This matter comes before the court on Plaintiff's Motion to Enforce Consent Decree. The court has  
21 considered all materials supporting and responding to said motion, as well as the files and records herein.

22 A Consent Decree was entered in the matter on September 16, 2003 (copy of which is attached as  
23 Exhibit 1 to plaintiff's motion). It is undisputed that the purpose of the decree was to improve water quality  
24 and fish habitat in Dean Creek. This was to be accomplished by restricting inflow of Dean Creek to Pond 5,  
25 and restrict outflows from Pond 5 as described in section IV. A. of the Consent Decree. By the terms of the  
26 decree the work was to take place within 60 days of the date defendant obtained the necessary permits.  
27 Plaintiff contends that defendant obtained the necessary permits and has failed to commence (or complete) the  
28 work contemplated by the Decree. Plaintiff contends that the failure to comply constitutes a willful violation  
of the Decree, and by way of this motion seeks enforcement.

29 Defendant responds alleging that plaintiff has prevented defendant from obtaining the necessary permits  
30 by appealing virtually all of them, and that defendant cannot begin the work on Pond 5 until the required  
31 permits are final.

32 Plaintiff asserts that the permits pending appeal are not necessary or required to commence or complete

1 the work on Pond 5. Defendant seems to acknowledge this but counters that the permits already obtained must  
 2 become final which will not occur until all appeals have been resolved. This, notwithstanding the October 22,  
 3 2007 correspondence from the Washington State Department of Fish and Wildlife stating that nothing more  
 4 than the renewal of the Hydraulic Project Approval (HPA) permit is necessary to accomplish the project. The  
 5 department further asserts that "there are no other permits required by the Washington Department of Fish and  
 6 Wildlife to accomplish this project." (Exhibit 3 to plaintiff's motion).

7 It appears to the court that Storedahl is suggesting that plaintiff's objections to new or other mining  
 8 operations not related to the Pond 5/Dean Creek issue addressed in the Consent Decree, somehow preclude  
 9 Storedahl's compliance with the Consent Decree. Such is not the case. The Consent Decree is specific as to  
 10 Pond 5 and it's relationship to Dean Creek. The plaintiffs have not violated either the letter or the spirit of  
 11 paragraphs H. or J. of the Consent Decree regarding the permitting process. Storedahl cannot stall compliance  
 12 with the Consent Decree by initiating/pursuing other permit processes regarding it's overall mining operation.

13 The evidence submitted by Storedahl to support their contention that additional permits (other than  
 14 renewal of its prior HPA permit) are needed is simply not persuasive.

15 Plaintiff's Motion to Enforce Consent Decree is Granted. It is hereby ORDERED, ADJUDGED, AND  
16 DECREED as follows:

17 (1) Storedahl is to contact the Washington Department of Fish & Wildlife, no later than February 5,  
 18 2008, and renew its prior Hydraulic Project Approval permit for the work required by the Consent Decree.

19 (2) Within 60 days of the permit renewal, defendant is to complete the work specified in the Consent  
 20 Decree.

21 (3) Defendant is to file a Status Report with the court and plaintiff on its progress in completing the  
 22 permit renewal and the Decree required work on or before February 19, 2008, and every 30 days thereafter  
 23 until all the work called for in the Decree is completed.

24 (4) If defendant does not complete all the work required by the Decree within 60 days of the renewal  
 25 or reissuance of the HPA permit, plaintiff may seek sanctions from the court.

26 (5) The issue of costs and attorney fees is reserved pending further motion and response with  
 27 supporting authority.

28 January 22, 2008

/s/ **J. Kelley Arnold**  
 J. Kelley Arnold, U.S. Magistrate Judge